



**Planning Board
Town of Westford**
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Issues for Consideration
PB 1504 SP MCP SP WRPOD SPR SWM

A. Special Circumstances that apply to these petitions

1. Land Court Remand

- a. The Planning Board (Board) is considering these petitions under remand from Land Court Decision issued on December 8, 2014, *10 MISC 429867 (AHS) – Newport Materials, LLC and 540 Groton Road, LLC, Plaintiffs, vs. Planning Board of the Town of Westford and the Town of Westford, Defendants*, (LC Decision).
- b. Should the Board issue approvals for the requested permits, such approval is based upon the requirements and holdings of the LC Decision. The Planning Board has not yet had the opportunity to appeal from the LC Decision, as final judgment has not entered in the litigation, and it does not relinquish its rights to appeal the LC Decision. Of particular note, but without limiting the foregoing, the Board notes that the LC Decision holds that the proposed use would constitute a Light Manufacturing use allowed (with an MCP Special Permit) in the IA Zoning District. The Planning Board does not concur with this holding but is obligated by the LC Decision to accept it for purposes of this Remand. If this holding is reversed on appeal, any relief granted hereunder would become null and void.

2. Major Commercial Project (MCP) Special Permit

- a. Section 9.3A of the Zoning Bylaw and other relevant sections of the Bylaw, including, but not limited to, Section 3.1.2 sets forth the regulatory framework for the MCP.
- b. An MCP is required whenever one of the MCP criteria is triggered on a site. For example, if a site has an existing 10,000 square foot building and the property owner wants to expand by another 10,000 square feet, this expansion requires an MCP because the total site would have 20,000 square feet, which exceeds the 15,000 square feet threshold, even though each segment of the project is under the 15,000 square foot threshold. In other words, the MCP thresholds apply to a property as a whole, and the various uses of that site may not be segmented into smaller individual projects to avoid MCP review.
- c. Therefore, the Board considers the entirety of subject site (115 acres) as being subject to the MCP.

3. Materials processing is part of the proposed bituminous concrete manufacturing plant (asphalt plant).

- a. The materials processing facility, while approved as a USE by the Board of Appeals in 2009, is an integral part of the asphalt plant operations.
 - i. The Department of Environmental Protection Permit (DEP Permit) includes both the asphalt plant and the rock crushing and materials storage facility. The DEP to regulated these uses together, and it makes sense for the Board to do so as well.

- ii. The materials processing area and the asphalt plant are contained within a single fenced area and joined by internal driveways.
 - iii. There will be shared trips in which a truck delivering recycled asphalt for crushing at the materials processing facility may then be loaded with asphalt from the silos.
 - iv. The applicant has represented that up to 50% of the Recycled Asphalt Pavement (RAP) used for manufacturing of asphalt will be provided from the materials processing facility.
 - v. Asphalt manufacturing components such as sand, fine sand, aggregate and RAP are all stored within the materials processing facility.
 - vi. The asphalt plant is designed to operate with RAP, which is manufactured in the materials processing facility and also other ingredients for asphalt such as sand, fine sand, and aggregate are stored within the materials processing yard area.
 - vii. The materials processing facility exists without benefit of a Site Plan Review (SPR), and is therefore a legally noncompliant use. The materials processing plant did not receive a Site Plan Review (SPR) approval in 2009 from the Planning Board. Section 9.4.1 of the Zoning Bylaw states that *"The following types of activities and uses are subject to site plan review by the Planning Board. 1. Construction, exterior alteration, exterior expansion of a nonresidential or multifamily structure or tower, or change in use..."* Therefore SPR for the materials processing facility is required.
- b. As described above, the proposed asphalt plant, as proposed, is designed to operate with RAP which is being produced in the materials processing yard. The two uses are physically and procedurally tied together. Therefore both facilities shall be considered and conditioned as part of any approval of the MCP and SPR.
4. Zoning relief required by LC Decision.
The LC Decision, as clarified by the Court at a Hearing on January 6, 2015, requires a Variance for multiple uses on a site. Applicants submitted a petition for Variance to the Zoning Board of Appeals (BOA), which is still pending at this time. The BOA's hearing is scheduled to be re-opened in early May 2015. The issuance of any approvals/permits by the Planning Board does not obviate the applicant from securing the necessary Variance relief from the BOA.
- B. Waiver requested under Section 9.3A.6 of the Zoning Bylaw.**
1. Applicant requested a waiver from the MCP standard 9.3A.4.2. Noise. Ambient Noise Level. No person shall operate or cause to be operated any source of sound in a manner that creates a sound which exceeds 70 dBA or 10 dBA above ambient, whichever is lower, when measured at the property boundary of the receiving land use.
- a. The applicant maintains that the construction of a 1,200 foot long sound attenuation wall at 35 feet in height along the westerly property line will meet the standard. However, the applicant seeks a waiver from the construction of the wall and the performance standards. Specifically, the applicant requests the ability to cause sound that is 75dBA (and 32 dBA above ambient) at the westerly property boundary.

- b. The Planning Board can grant relief to this Special Permit standard through a waiver with findings and reasons for such action. If the Board grants a waiver, the applicant would not have to build the sound attenuation wall. Alternatively, the Board may grant a partial waiver to allow the applicants to construct a smaller sound attenuation wall, which would not result in full compliance with standard 9.3A.4.2, but would result in some attenuation of the sound at the western boundary of the site. .
- 2. Should the Planning Board grant such waiver, additional Variance relief is required from the Board of Appeals. the Applicant submitted a petition to the BOA to exceed the definition of the term "quiet" in the light manufacturing definition. The BOA public hearing on this matter is scheduled to reopen in early May 2015.

C. Compilation of Conditions presented to the Board throughout the Public Hearings

1. Decisions – When are they Effective?

- a. Decisions to approve the petitions are not effective until the Board of Appeals grants relief for multiple principal uses on a site as required in the LC Decision.
- b. Decisions to approve the applications shall become null and void should applicable portions of the LC Decision be vacated on appeal.
- c. Decisions to approve the applications are null and void upon any violation of any of the conditions of approval.
- d. Special Permit decisions to approve are valid for a period of __??__year(s) from commencement of operations. Applicants may apply for extension of the approvals six months prior to expiration.

2. Operating Limitations

- a. Hours of operation limited to 6:00 a.m. to 6:00 p.m. Monday through Friday and 7:00 a.m. to 5:00 p.m. on Saturday, no Sunday operations for all uses on the site. [BOA 09002 SP condition] There shall be no night operations (i.e. no production or trucking operations between 6:00 p.m. and 6:00 a.m.).
- b. No operations of the asphalt plant and materials processing facility are allowed from December 15 to March 15. [DEP Permit]
- c. Average monthly production from the asphalt plant is limited to 1,500 tons of bituminous product per diem for the months the plant is operating. [VAI]
- d. Any new or expanded use of the site, including without limitation additional use of the 14,000 office building, shall require a modification of the SPR, and the MCP SP.
- e. Town staff may inspect the site with 24 hours notice to the property owner or, in the event of a documented complaint regarding noncompliance with any condition hereof, at any time during operation of the facility.
- f. Applicant shall provide an annual report to the Board or its designee on or about January 1 of each year. The report shall be certified by the Operator of the asphalt plant and the materials processing yard and shall include:

- i. Quantity of asphalt produced per month;
- ii. Quantity of materials brought into the site for processing per month;
- iii. Quantity of RAP used by the asphalt plant per month;
- iv. Quantity of crushed stone purchased from adjacent land owner (Fletcher Quarry) per month
- v. Quantity of crushed stone purchased from other sources per month;
- vi. Quantity of sand, liquid asphalt, number 2 fuel oil brought onto the site per month.

3. MCP – Traffic/Transportation

- a. Commercial truck access and egress from the site.
 - i. All commercial truck traffic entering Commerce Way from Groton Road shall enter westbound on Route 40 (Groton Road). No commercial trucks shall turn left from Groton Road into the site. [Derived from BOA 09002 SP condition of approval #1]. It shall be the applicants' responsibility to notify all users of the site of this restriction, and applicants shall be responsible for any violation hereof.
 - ii. Large trucks (more than four wheels) shall turn left when exiting the site (Commerce Way). Trucks with local destinations [*alternatively to the Towns of Westford, Chelmsford, ____*] (local paving contractors) that require right-turn egress will be managed by a color coded ticket procedures that allows for enforcement by Westford Police Department. *In such cases the site management shall provide the truck operator with a written certificate identifying the owner of the truck, the date and time and the destination of the delivery. Such certificate shall be in a form approved by the Chief of Police.* It shall be the applicants' responsibility to notify all users of the site of this restriction, and applicants shall be responsible for any violation hereof. [*Galvin*]
- b. Advance Advisory/Warning Signs. Applicant shall install advance warning signs along Groton Road following MUTCD guidance ("Trucks Entering Ahead") in combination with 35 mph speed advisory plaques to alert motorists of truck activity and to encourage slower travel speeds in the Site vicinity. [MDM and VAI]
- c. Daily Limitations (Not Averages) on Number of Trips [VAI/MDM/Staff]
 - i. 250 [244 – *Galvin*] trips per day allocated to asphalt plant
 - ii. 150 trips per day allocated to materials processing yard
 - iii. 50 trips per day allocated to remaining uses on the site.
 - iv. Total of 450 trips per day for the site.
- d. Emergency Access.
 - i. Prior to any site clearing the applicant shall provide the Board or its designee copies of emergency access easement documents and evidence that they have been recorded at the Middlesex North Registry of Deeds.

- ii. Prior to any site clearing the applicant shall demonstrate that the emergency access will accommodate emergency service vehicles (including but not limited to road construction detail, turning radii and road slope data).
- iii. Emergency access roads shall meet NFPA -1 and 527 CMR Chapter 18: [WFD]
 - (1) minimum access road widths shall be no less than twenty feet (20');
 - (2) permeable driving surfaces shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with an all-weather driving surface.
- e. Monitoring of trips. [VAI/MDM/Staff/Galvin]
 - i. Applicant shall develop a monitoring program and submit it for Board approval. Board's implementation of such monitoring program may require deposit of funds to the Board to ensure review and comment by Professional Traffic Engineers. Said monitoring program shall include recommendations of the Board's traffic consultant MDM Transportation Consultants' recommendations [MDM March 11, 2015 letter]:
 - (1) **Monthly submittal of certified summary of daily records** of time-stamped trip activity logs (including all truck activity, employee activity, delivery and visitor activity associated with the asphalt plant and materials processing yard).
 - (2) **Baseline Trip Survey.** Applicant shall establish an appropriate "baseline" survey of vehicle trip activity (by vehicle type) at Commerce Way, prior to commencement of operation of the Project, to reflect the range of peak hour and daily trips generated by existing established uses on the Site including the materials processing facility, retail granite product sales, solar farm, and office use. The survey period shall be representative of peak operating seasons for these uses (most likely summertime) and shall include counts over a multi-day period to include weekdays and Saturdays. The combination of existing uses should generate peak hour trip levels that are equal to or less than those assumed in the TIS; variation from these estimates would raise concern regarding traffic operations once the Project becomes operational and would require further evaluation by this Board as to whether to reopen the public hearing to consider imposition of further conditions. The survey will also facilitate measurement of actual trip increases at Commerce Way that are attributed to the Project following opening.
 - (3) **Driveway Traffic Counts.** Turning movement counts (TMCs) for the Commerce Way driveway shall be conducted following commencement of operation of the Project under peak season conditions over a multi-day period to include weekdays and Saturdays to validate projected Build traffic volume conditions used in the TIS. These TMCs would augment the vehicle activity logs maintained by the Applicant to validate peak driveway volumes, vehicle types and directional distribution of trips at Commerce Way under peak operating conditions.

The Board reserves the right to periodically monitor the 7AM to 9AM traffic operations at the intersection of Commerce Way and Groton Road. If such

monitoring reveals evidence that there is condition at that intersection which presents a potential threat to the public safety, the applicant shall be required to pay for police details to regulate traffic at that intersection during the hours of operation that are of concern. This decision shall be made by the Board based on a review of operational experience at the intersection. [Galvin]

- (4) **Video Monitoring.** Applicant shall install and maintain video monitoring equipment on Commerce Way to augment trip activity logs and "peak season" TMC data, which would allow real-time checks of driveway operations, trip levels and patterns relative to log reports and the established "Build" condition traffic projections in the Applicant's TIS.

All traffic coming to this site originating from an off site location other than the Fletcher Quarry for either the purpose of depositing supplies and material or for picking up product, shall enter the site through the Commerce Way entrance and no other. The applicant shall install a high definition CCTV camera with 180 day storage capability to monitor the ingress and egress of vehicles into the site from this entrance. All vehicles shall be provided with a distinctive number printed on fluorescent tape, visible from a distance of 20' which shall be placed at the top center of the trucks windshield. The applicant shall keep a register of all numbers issues to vehicles. The register shall identify the owners and the address of the vehicles and the purpose for using the plant. The Building Commissioner and the Chief of Police shall have access upon 24 hour request to review recordings from this camera for the purpose of verifying compliance with the trip limits specified in this approval. Deviations from the established limits shall be reported to the Board. Failure to comply with the established truck trip limits may result in a suspension or revocation of this special permit. [Galvin]

- f. Site entrance improvements [MDM]
- i. Applicant shall prepare engineering plans with specific lane dimensions, land striping and sign placement that conforms to MUTCD standards for approval by the Board or its designee. Said plans shall address the areas of encroachment illustrated by the VAI turn movement analysis.
 - ii. Applicant shall prepare engineering plans that show at least a 4 foot widening of Groton Road to increase the useable (paved) shoulder areas on the eastbound approach to the driveway to accommodate trucks turning left from the site driveway. If all necessary approvals for such widening are issued, applicant shall construct such widening at its own expense.
- g. Operation of the asphalt plant and materials processing shall not result in stacking of trucks on Rte 40/Groton Road waiting to enter Commerce Way. The Westford Police shall take notice of any such condition and shall immediately report this condition to the Building Commissioner. If the condition cannot be alleviated, or if it develops into a persistent condition the Board shall take notice and may suspend or revoke this special permit. [Galvin]
- h. The applicant represented that a minimum of fifty percent (50%) of the aggregate used in asphalt production will be obtained from the adjacent Fletcher Quarry. This material shall be transported from the proposed internal quarry roads and shall not result in trucks traveling onto Groton Road.

4. Environmental Protection

- a. The applicant shall copy the Planning Board and Board of Health on all correspondence, reports, filings, and/or surveys required by the *310 CMR 7.02 – Air Quality Non-Major Comprehensive Plan Application Transmittal No. X227251, Application No. MBR-09-IND-005, Modified Conditional Approval* (DEP Permit).
- b. Applicant shall post a bond or other financial security, in an amount established by the Board and in a form approved by Town Counsel, to cover the cost of a potential hazardous materials spill on the site. The security shall be renewed prior to any expiration of its term and will be released by the Board upon permanent closure of the facility and certification from DEP that the site does not contain hazardous materials. [Galvin]
- c. Applicant shall immediately report any violations of the DEP regulations or the DEP Permit to the Board or designee. Violations of DEP regulations and Permit may result in the suspension or revocation of the special permit. Opacity of emissions shall not exceed 20%. **Emission rate shall not exceed 4.25lbs per hour with a limit of 3.4 tons in one 12 month period.** [Galvin]
- d. The Applicant shall add additional odor control equipment to the loading operation that will help to eliminate any odors resulting from the loading of material into trucks. Additionally, odor control additives will be added to the processing operation that will eliminate the asphalt odor from the finished materials thus eliminating odor not only from the processing operation but also from the trucks transporting the material.

*Applicant shall use odor control measures to reduce the affect of odor from this plant. Such actions shall be conducted with the **approval** of the Board of Health for the Town of Westford. Failure to effectively control odor may result in a suspension or revocation of the special permit. [Galvin]*

- d. The applicant shall perform a monthly “visolite test” on the baghouse to ensure that there are no broken filters. The Building Commissioner shall be notified in writing within seven days of any failed tests and the action taken to correct the deficiency. Following notification of a failed visolite test, the Building Commissioner or his designee may conduct a visual inspection of the site to ensure that the baghouse is performing properly. [Galvin]
- e. The applicant shall immediately notify the Westford Building Commissioner of any incident in which operations may have caused an increase in emissions over the limits established by the DEP permit. [Galvin]
- f. Should the State Department of Environmental Protection (DEP) not adequately enforce the conditions of approval in *310 CMR 7.02 – Air Quality Non-Major Comprehensive Plan Application Transmittal No. X227251, Application No. MBR-09-IND-005, Modified Conditional Approval* (DEP Permit), the Planning Board hereby incorporates all the conditions of approval so that it has the independent right to enforce the requirements through its Zoning Enforcement Officer or other designee. When the Board’s conditions are more limiting than the DEP permit, the more restrictive condition will be enforced by the Board. Applicant shall fund an escrow account to allow the board to hire professionals should they be needed to assist the Board to enforce the following conditions from the DEP Permit.

- i. Specific emission limits and pollution control devices for 4 different emission causing elements of the project (DEP page 6).
- ii. 60,000 tons of asphalt per month/300,000 tons per 12 month period or 1,500 tons per day and not more than 250 vehicle trips per day, whichever is lesser.
- iii. Newport Materials shall conduct a noise survey (during daytime operation), which is in accordance with MassDEP guidelines, to demonstrate the noise impacts from the operation of the equipment are in compliance with Regulations 310 CMR 7.10 and the Bureau of Waste Prevention's Noise Policy No. 90-001. This survey shall be conducted within 120 days of the commencement of continuous operation of the subject equipment. The results shall be submitted to the Planning Board within 20 days of completion of the testing. *If the results demonstrate non-compliance with 310 CMR 7.10, the Board shall take notice and may suspend or revoke this special permit.*
- v. Requirements for testing of emissions with DEP personnel present 120 days after operational;
- vi. Specific performance measures relating to air quality and monitoring of air quality.
- vii. Specific equipment and operational procedures.

Note – the above list of DEP conditions is a summary only, to be supplemented with additional detail.

5. Fire and Life Safety and Hazardous Materials (note emergency access road conditions under Transportation)

- a. The two 30,000 gallon cisterns shall meet all requirements of NFPA-1142. As a condition of approval, a report documenting the sizing of the fire protection cistern should be prepared by a registered fire protection engineer and submitted to the Board. The fire chief should provide comments relative to the cistern and fire alarm system prior to the start of construction. [Westford Fire Department (WFD)/Woodard & Curran]
- b. WFD and its equipment shall be able to access each of the cisterns so that access road(s) are not blocked and so that other WFD vehicles can pass those vehicles accessing the cisterns. [WFD]
- c. The applicant shall provide the Foam Cart shown on the Site Plans throughout the lifetime of the plant's operation. The applicant shall maintain said Foam Cart in good working order and ensure that it is fully supplied. The equipment shall be available for use by the WFD if needed. [WFD/RJA]
- d. Applicant shall provide (at no cost to the Town) OSHA's confined space training for the WFD staff on an annual basis and also provide for re-certification for WFD employees as needed over the lifetime of the asphalt plant's operation. [WFD]
- e. Asphalt Plant shall have an emergency shutdown mechanism and shut off valves from the fuel source to the burner that will shut down operation if there are any malfunctions of the burner, the exhaust fan damper or the baghouse. Should the emergency shutdown be triggered, the Fire Department shall be notified immediately and the Fire Chief or designee shall have the

authority to investigate and inspect the site and shall be allowed to monitor the progress of repairs. [Galvin]

- f. Flammable Combustible Storage for the site shall meet the requirements at a minimum as specified in 527 CMR 9.03. [WFD]
 - i. In accordance with MGL c. 148 § 37, any above ground storage tank of more than 10,000 shall secure a permit from the State Fire Marshal and the local fire chief.
 - ii. Storage of flammable combustible liquids greater than 10,000 shall require a License from the local license authority.
 - iii. Manual shut off valves shall be installed at the #2 Fuel Oil tank and Liquid Asphalt tanks as recommended by the Town of Westford Fire Department within their memo dated October 13, 2009.
- g. On an annual basis, determined by the Fire Chief, the applicant shall provide a detailed briefing to representatives of the Fire Department designated by the Fire Chief with regard to spill containment procedures. The Fire Chief may conduct an inspection of the plant on an annual basis. As part of this inspection the Chief may ensure that all plan personnel understand procedures related to both hazmat containment control and fire suppression. [Galvin]
- h. Keys to the facility shall be placed in a "Knox Box" acceptable to Westford Public Safety personnel. [Galvin]
- i. The applicant shall install a sprinkler system in the furnace area, emergency lighting in all interior spaces, clearly illuminated exit signs within interior spaces of the control room. [Galvin]
- j. Following any malfunction or abnormal condition with regard to emissions equipment, the applicant shall forward a written report to the Building Commissioner reporting such malfunction or abnormal condition, in a manner prescribed by the Commissioner within 15 days of the incident.
- k. For oil Spill Prevention, Control, and Countermeasure (SPCC) plans, any facility that has an oil storage capacity of 1,320 gallons or greater must prepare an SPCC plan. Since the capacity of the No. 2 fuel Oil storage tank is 10,000 gallons, a SPCC plan is required. A copy of the SPCC plan shall be provided to the Board and Town Engineer prior to commencement of the asphalt operations. [Woodard and Curran]
- l. Any breeches in emission controls, fuel storage and containment equipment or fire control issues shall be immediately reported to the Fire Chief and the Building Commissioner. [Galvin]
- m. All storage tanks must be rated at UL 142. Block valves on the containment structure shall be shut when the plant is not being operated. [Galvin]
- n. Applicant acknowledges that they must receive a Hazardous Materials permit from the Board of Health.
- o. Hazardous Materials Data sheets for all material stored at this site shall be provided to the Fire Chief and the Board of Health. An update to these information sheets shall be provided to the Fire Chief and Board of Health forthwith when materials are added to the site. [Galvin]
- p. Zones where dumping, storage or stockpiling of Hazardous Materials are prohibited shall be established on site subject to review by the Town Engineer and Board of Health. These zones

must be clearly marked with posted signs plainly visible.]Galvin]

- q. The proposed asphalt facility shall incorporate all standard and optional controls and safety interlocks Gencor provides. [RJA]
- r. Prior to plant operations and/or occupancy permit the operating procedures, including emergencies (e.g. fire), maintenance program, and hot work procedures shall be developed for the Westford Asphalt Facility to address the safety procedures to avoid or minimize human errors through training and procedures. [RJA]
- s. Prior to plant operations (occupancy permit) a general Hazardous Operations (HAZOP) analysis shall be prepared for the site. These elements should be completed prior to the plant operations. [RJA]
- t. If the exhaust system for the conveyor belt, top of the silo and bottom of the silo, are not operational the manufacturing process shall stop until remedied. [RJA]

6. Sound

- a. No person shall operate or cause to be operated any source of sound in a manner that creates a sound level which exceeds 70dBA or 10dBA above ambient, whichever is lower when measured at the boundary of the receiving land use (except as necessary for tree cutting and other required construction activities). [note – this condition may change if Board approves waiver request]
- b. Applicant shall include the Board or its designee on the post operational sound analysis report and field testing. Applicant shall provide funding for the Board's peer reviewer to review said reports and field testing.
- c. Applicant shall modify plan details of the asphalt facility manufacturing elements to include the enclosures and mufflers around certain sound sources as detailed in the CTA report dated _____. Applicant shall construct the sound attenuation barrier as specified by CTA and applications materials. [note – this condition may change if Board approves waiver request]
- d. Applicant shall revise the sound report and resubmit to the Board for review to include all rock crushers on the site so that the Board can determine the sound levels at all property lines. Applicant shall provide escrow funding for the Town's peer reviewer to examine the results of such sound modeling.
- e. Applicant shall annually conduct a sound survey at the five closest residential receptors (list property addresses). The survey shall measure ambient sound levels prior to commencement of operations for the day and shall measure sound levels after full operation of the plant commences for the day. If the survey demonstrates more than a --- dBA increase of sound level at any residential property boundary, the Board shall take notice and may suspend or revoke this special permit.

7. Rescinding Subdivision

Note – to be discussed at the hearing.

8. Voluntary Mitigation offered by the Applicant March 31, 2010 letter from Douglas Deschenes, Esq.

The Board hereby accepts and incorporates the mitigation measures proposed in the March 31, 2010 letter and April 1, 2010 email correspondence from Applicant's counsel Douglas Deschenes, Esq.

9. Stormwater Management

- a. Applicant shall introduce appropriate site measures to prevent sediment from being tracked into Groton Road and to provide the Board with details on those proposed measures. [Town Engineer]
- b. A draft maintenance agreement is required as part of the Stormwater Management Permit application. The agreement is required to comply with the maintenance requirements of the Stormwater Management Regulations including: Sections 6.H, 6.K and 12.0. The final maintenance agreement shall be submitted to the Town for review and approval prior to the completion of construction. The maintenance agreement shall be recorded at the Middlesex North Registry of Deeds once approved by the Town. [Town Engineer]
- c. As-built record drawings are required to be completed in accordance with Section 6.H of the Stormwater Management Regulations upon completion of the project. The Engineer of Record shall provide a written certification stating that the project was constructed in accordance with the approved design plans. [Town Engineer]
- d. The applicant shall comply with construction inspection requirements outlined in Section 11.0 and the continuing inspection and maintenance requirements in Section 12.0 of the Westford Stormwater Management Regulations. [Town Engineer]
- e. Applicant shall protect the infiltration basin and other structural stormwater Best Management Practices (BMPs) during construction in order to prevent a reduction in the long term infiltration capacity of the soil. All stormwater BMPs shall be cleaned of any silt and sediment once construction is complete and the project has been fully stabilized. This may require the removal and replacement of soil to make certain that the infiltration rate of the soil is met. [Town Engineer]
- f. The final stormwater operation and maintenance plan (O&M) shall be updated to include a simplified site plan that would highlight the location of the various structural pollutant controls and stormwater BMPs outlined in the O&M Plan. [Town Engineer]
- g. The applicant shall comply with the O&M in perpetuity and as outlined in the final maintenance agreement. [Town Engineer]
- h. Applicant shall demonstrate that post construction drainage areas closely match the drainage areas shown on the post-development drainage map submitted. [Town Engineer]
- i. The Stormwater Management Permit decision shall reference the SWPPP prepared for the project and require compliance with that SWPPP until the project is fully stabilized. Prior to commencement of any site clearing or construction activities, the applicant shall provide a copy of the final Stormwater Pollution Prevention Plan (SWPPP) to the Engineering Department. The SWPPP shall be received no later than the required pre-construction meeting. [Town Engineer]

- j. Prior to commencement of plant operations and/ or any issuance of a Certificate of Occupancy, the Applicant shall inspect, clean and repair (if necessary) to the satisfaction of the Engineering Department the existing stormwater management system. [Town Engineer]
- k. The Applicant shall conduct soil testing within the footprint of each subsurface infiltration system and within the stilling basin prior to the start of construction and in the presence of the Engineering Department to verify proposed design assumptions and confirm compliance with the Stormwater Standards. [Town Engineer]
- l. Prior to commencement of plant operations and/ or any issuance of a Certificate of Occupancy, the Design Engineer shall certify that the proposed subsurface infiltration system was installed in accordance with the manufacturer's specifications. [Town Engineer]
- m. The Applicant shall provide copies of the NPDES Construction General Permit to the Engineering Department no later than the required Preconstruction Meeting. Once the contractor is selected, the USEPA Notice of Intent (NOI) for construction activities regulated under the Construction General Permit and Stormwater Pollution Prevention Plan should be provided to the Town Engineer prior to the start of construction. [Town Engineer/Woodard & Curran]
- n. The Applicant shall provide a copy of the Long-Term Pollution Prevention Plan to the Engineering Department no later than the required Preconstruction Meeting. [Town Engineer]
- o. The Applicant shall protect the subsurface infiltration systems and stilling basin during the construction process to prevent a reduction in the long term infiltration capacity of the soil. Once construction is complete, the Applicant shall clean these stormwater BMPs of any silt and sediment. At the discretion of the Engineering Department, this may require the removal and replacement of soil to make certain that the infiltration rate of the soil is met. [Town Engineer]
- p. The Applicant shall combine the Operation and Maintenance (O&M) Plan and Long-Term Pollution Prevention Plan into a bound letter-sized document that shall be provided to the Owner and Operator, and the Applicant shall comply with this document in perpetuity. This document shall also include a simplified site plan that highlights the location of the various structural pollutant controls and stormwater BMPs. This document shall apply to post-construction management of the site and shall be separate from the required SWPPP. [Town Engineer]
- q. The O&M Plan shall be recorded with the decision at the Northern Middlesex Registry of Deeds. Compliance with the O&M Plan shall be a condition of approval. [Woodard & Curran]
- r. Prior to commencement of plant operations and/ or any issuance of a Certificate of Occupancy, the applicant shall have an as-built plan of the site and stormwater systems and provide an engineer's certification stating that the project was constructed in accordance with the approved design plans. The as-built plan shall conform to the specifications provided in section 218-25 of Westford's Subdivision Rules and Regulations and section 6.H of the Westford Stormwater Management Regulations upon completion of the project. [Town Engineer]
- s. An asphalt plant with a point source discharge to a navigable water body must submit a Notice

of Intent (NOI) to the USEPA sixty days prior to discharge in accordance with Sector D (Asphalt Paving and Roofing Materials and Lubricant Manufacturers) of USEPA's Multi Sector General Permit for Industrial Activities (MSGP). Prior to submitting the NOI, the facility must prepare an industrial stormwater pollution prevention plan (SWPPP) that describes potential pollutant sources; structural and non-structural best management practices (BMPs); and other stormwater management procedures such as preventive maintenance, good housekeeping, pollution prevention team, spill prevention and response, training, monthly visual inspections, record-keeping, and reporting. This NOI shall be submitted as draft to the Town for review prior to submission to the USEPA. [Woodard & Curran]

- t. The applicant shall not be allowed to pave any additional areas on-site without prior SPR and MCP approvals from the Planning Board. [Woodard & Curran]

10. General conditions of approval

- a. Once the contractor is selected, a construction schedule shall be provided to the Building Commissioner for review. This schedule should be updated on a monthly basis and should address the implementation of erosion control measures during the course of construction. [Woodard & Curran]
- b. Any fill used in connection with this project shall be clean fill. Any fill shall contain no tree stumps, trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
- c. As used herein, the term "Applicant" shall mean the Applicant, its heirs, successors and assigns. The term "Board" as set forth herein shall mean the Westford Planning Board. The provision of this approval shall apply to and be binding upon the Applicant, its employees and all successors and assigns in interest or control.
- d. All work is to be done in accordance with the aforementioned record plans. Any changes, revisions or modifications to the plans as approved herein shall require approval by the Planning Board. Non-substantive changes, as determined by the Board, may be approved by the Board at a regularly scheduled public meeting. Substantive changes may be approved by the Board through a public hearing process.
- e. The applicant is reminded to contact the Building Commissioner to determine sign permitting requirements for proposed facilities.
- f. Prior to commencing any construction or site work, the applicant shall record this decision with the Middlesex North Registry of Deeds and shall provide evidence of such recording to the Planning Board.
- g. The Special Permits shall lapse after two (2) years from the grant hereof if a substantial use has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.
- h. All landscaping features, structures and areas shall be properly maintained. Dead shrubs or trees shall be replaced within one growing season.

- i. The Limits of Work, as shown on the approved plans, shall be staked out in the field by a Professional Land Surveyor. Orange construction fencing (or an approved equivalent) shall be installed at the Limits of Work. All trees within the Limits of Work that are to be retained during the construction process shall be properly flagged to avoid damage or removal during the construction process. Such flags shall be installed prior to any site clearing. The Limits of Work and erosion control measures shall be inspected and approved by the Town Planner prior to commencing any additional site work.
- j. Retaining walls over four (4) feet high shall be reviewed and stamped by a Structural Engineer.
- k. The Applicant acknowledges that this approval is subject to completion of all necessary filings and any order of conditions issued for this project by the Town of Westford Conservation Commission. In addition, if any of the approved site features are amended by the Conservation Commission in a way that would require an amendment, then the Applicant shall submit these changes to the Planning Board for their review and approval.
- l. Prior to commencement of plant operations and/ or any issuance of a Certificate of Occupancy, all required legal documents including but not limited to covenants, easements, agreements, monitoring agreements shall be submitted to the Town Planner and Town Counsel for review and approval. It shall be the responsibility of the Applicant to pay all legal cost associated with the review of this decision and documents associated with this decision.
- m. Any blasting activity at the site must conform to the requirements of the Town's Fire Department officials, the State Fire Marshall's Office and any other appropriate regulatory official. Additionally the Contractor shall be responsible for seismograph monitoring, notification to neighbors within the immediate work area prior to blasting and posting a fire detail on the site. If blasting is required for the construction of the site use the following steps will be taken to monitor/rectify any potential damage as a result of the blasting:
 - i. The Applicant shall provide documented inspections, i.e. videotaping, of any foundations and pools within 400' of any expected blast area prior to the start of any blasting;
 - ii. The Applicant shall provide pre and post blasting water testing for all residents within 400' of any expected blast area in the subject subdivision prior to the start of any blasting. Water quality, including radon testing, and a specific capacity/short term pumping test shall be included in this testing;
 - iii. The Applicant or their hired contractors, shall notify those residents within 400' of any expected blast area, when blasting will begin on the site and will again notify them when all blasting is complete;
 - iv. Blasting hours will be from 8:00 a.m. to 4:00 p.m., weekdays only;
 - v. The Applicant shall rectify those problems that are proven to be a result of blasting on the subject subdivision, i.e. foundation cracking and deterioration in water quality;
 - vi. The use of any perchlorate blasting material is prohibited;
 - vii. Hours of operations pertaining to air hammering or similar practices shall be limited to Weekdays between the hours of 8:00AM through 4:00PM.

- n. Within 60 days of the issuance of this decision and prior to commencement of plant operations and/or issuance of any building permits, the applicant shall provide the Permitting Department with the recordable Mylar plan set (sheets to be determined by Planning Staff), one (1) full Mylar plan set, five (5) sets of full sized and two (2) sets of reduced copies of the final *endorsed* plan set, an electronic copy of the *endorsed* plan set, as well as a digital copy of the final set of approved plans. Final plans shall be received no later than the required pre-construction meeting. The digital copy of the final set of approved plans must follow the five requirements listed below:
- i. All plans and specifications must be submitted on electronic media (CD or DVD_ROM using an IBM-PC or compatible file format). Acceptable file formats include: AutoCAD *.dwg, AutoCAD *.dxf, ArcView *.shp, or ArcGIS Geodatabase *.mdb. The files must be identical to the printed plan and contain all information included on the written plan.
 - ii. All digital mapping data must be delivered in the Massachusetts State Plane Coordinate system with a horizontal datum of NAD83 and vertical datum of NGVD88.
 - iii. Each feature type must be organized in the CAD or GIS data structure as a separate layer using logical layer names. For example, there must be separate CAD layers for buildings, roads, parcel lines, and wetlands. Having all these features in a single CAD layer or GIS file will not be accepted.
 - iv. Documentation of the data format must be provided with a description of the CAD layers and list of the types of features placed in each layer. Submission of multiple files must also include a list of the files and their purpose.
 - v. The data submitted must include documentation on the method used to gather the data, the name of the person(s) responsible for preparing the data, contact information, an estimation of the horizontal and vertical accuracy, and the date of data capture. All media shall be free from any and all defects and viruses, and labeled as to their contents.
- o. Any minor revisions to the design of any drainage control measures shall henceforth be subject to the approval of the Town Engineer and the Town Planner. Significant modifications will require review by the Planning Board in accordance with condition **10.d.**
- p. Impervious areas associated with the development (such as building and pavement areas) shall not exceed those sizes used in the stormwater calculations and as shown on the plans unless reviewed and approved by the Town Engineer.
- q. Prior to the commencement of any construction or site work** the Applicant shall initiate a pre-construction meeting with the Engineering Department, Planning Department and other relevant Town Departments and Town Staff. All relevant contractors and subcontractors involved with site preparation/site construction activities shall attend this meeting. This approval with conditions shall be reviewed by all parties involved.